

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING**

DONNA DARLENE ALLMAN,

Plaintiff,

v.

CASE NO. 5:20-CV-220 (Bailey)

CMFG LIFE INSURANCE COMPANY,

Defendant.

ELECTRONICALLY
FILED
Oct 09 2020
U.S. DISTRICT COURT
Northern District of WV

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant CMFG Life Insurance Company (“CMFG Life”) hereby gives notice of and removes this action to the United States District Court for the Northern District of West Virginia.

BACKGROUND AND BASIS FOR REMOVAL

1. On or about September 1, 2020, Plaintiff Donna Darlene Allman commenced this action by filing a complaint in the Circuit Court of Marshall County in the State of West Virginia. CMFG Life was served on or after September 9, 2020. A copy of the service papers, including the Complaint, is attached hereto as Exhibit A.

2. Because CMFG Life was served with the Complaint on or after September 9, 2020, this notice is timely filed in accordance with 28 U.S.C. § 1446(b) because it is brought within thirty days after receipt by CMFG Life. *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347–348 (1999).

3. This action concerns a life insurance policy allegedly issued by CMFG Life on the life of Frances O’Neal Stone (the “Policy”). *See* Ex. A, Compl. ¶ 8. Plaintiff was the alleged beneficiary of the Policy. *Id.*

4. Plaintiff alleges that the proceeds of the Policy are payable following Mr. Stone’s death. *Id.* ¶ 13.

5. Plaintiff demands judgment against CMFG Life in the sum of \$100,000, plus other and further relief as “may become apparent.” *Id.* at 8 (“Wherefore” clause).

6. This is a civil action, and this Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because there is complete diversity of citizenship and because the amount in controversy exceeds the \$75,000 jurisdictional minimum. *Id.*

7. At the time this lawsuit was filed, Plaintiff was and remains a resident and citizen of West Virginia. *Id.* ¶ 1.

8. CMFG Life Insurance Company was at the time the lawsuit was filed, and is as of the date of this Notice, a corporation organized and existing under the laws of the State of Iowa, with its principal place of business in Madison, Wisconsin. Thus, CMFG Life is not a citizen of West Virginia.

9. There is complete diversity of citizenship between Plaintiff and Defendant.

10. This action involves a dispute in the amount of \$100,000 in insurance proceeds, and Plaintiff seeks to recover at least \$100,000.

11. Accordingly, Plaintiff seeks to recover an award in excess of \$75,000, exclusive of interest and costs, and the amount in controversy thus exceeds the jurisdictional minimum.

VENUE AND PROCEDURAL REQUIREMENTS

12. The Circuit Court of Marshall County in the State of West Virginia is located within the Northern District of West Virginia. Thus, venue in this Court is proper under 28 U.S.C. § 1441(a).

NOTICE

13. Pursuant to 28 U.S.C. § 1446(d), all adverse parties are being provided with written notice of removal, and a copy of this Notice is being filed with the Circuit Court of Marshall County in the State of West Virginia.

JURY TRIAL

14. Plaintiff demanded a jury trial in the state court action.

STATE COURT PLEADINGS

15. A copy of the Complaint, which is the only pleading in the state court action, is attached to this Notice as Exhibit A. The case is being removed from the Circuit Court of Marshall County. A copy of the Marshall County docket sheet for this matter is attached as Exhibit B. Upon information and belief, other than these filings, no other proceedings have occurred in state court, and no other pleadings, process, or orders have been served. Upon information and belief, other than these filings, no other proceedings have occurred in state court, and no other pleadings, process, or orders have been served.

NON-WAIVER OF DEFENSES

16. By removing this action, Defendants do not waive any defenses they may have to this action.

CONCLUSION

WHEREFORE, CMFG Life, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby removes this action from the Circuit Court of Marshall County, to the United States District Court for the Northern District of West Virginia.

Respectfully Submitted,

**CMFG LIFE INSURANCE COMPANY
BY DINSMORE & SHOHL LLP**

/s/ Jill Cranston Rice

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CERTIFICATE OF SERVICE

I, Jill Cranston Rice, hereby certify that on October 9, 2020, the foregoing *Notice of Removal* was filed with the court through the ECF system, and copies of the above will be provided to all parties of record at the addresses indicated below by sending electronically to the registered participants as identified on the notice of electronic filing (NEF), or by sending paper copies to those indicated as non-registered participants.

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